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HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			PECHHOLD, ALEXANDRA K	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,168

Applicant(s)

MARKO ET AL.

Examiner

Alexandra K Pechhold

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9,15,16,20-22,24,26,28,29,35-37 and 45-50 is/are allowed.
- 6) ☒ Claim(s) 1-8,12-14,17-19,23,25,27,30,31,33,34, and 38-44 is/are rejected.
- 7) ☒ Claim(s) 10,11 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/16/04,3/1/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-3 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Frederiksen (WO 01/02667 A1).**

Regarding claim 1, Frederiksen discloses a ramp system comprising ramp modules of at least two different configurations, one of said at least two ramp module configurations being an inclined ramp module (see ramp element 2A in Fig. 1) having an upper support surface which is inclined for substantially its full engageable length and is supported on generally triangularly shaped side walls substantially over its length (as shown in Fig. 1), said inclined ramp module having an end wall at one end of said side walls and at the upper end of said inclined surface, another of said at least two module configurations being a straight ramp module (see tile elements 4 in Fig. 1) having a generally horizontal, planar upper support surface supported on generally rectangularly shaped side walls substantially over its length, said straight ramp module having end walls at opposite ends of said side walls and said straight support surface (shown in Fig. 1), said inclined ramp module having a bottom side engageable with a ground surface (see Fig. 1) and alternatively adapted to be supported upon said planar support surface of said straight ramp module in a stacked relationship (see ramp

Art Unit: 3671

element 2 stacked on tile element 4 in Fig. 1), said straight ramp module having a bottom side engageable with a ground surface (see Fig. 1), said end wall of said inclined ramp module adapted to be secured to one of said end walls of said straight ramp module for end-to-end assembly (as shown in Figs. 1-4).

Regarding claim 2, Frederiksen illustrates the bottom side of the straight ramp module adapted to be supported on the planar support surface of another of the straight ramp modules in a stacked relationship in Figs. 5 and 6.

Regarding claim 3, Frederiksen illustrates in Figs. 5 and 6 either of said end walls at the ends of said straight ramp module adapted to be secured to the opposite end wall of another of said straight ramp modules and to said end wall of said inclined ramp module for end-to-end assembly.

Regarding claim 23, Frederiksen discloses the limitations of the claimed invention as discussed in regards to claim 1 above. Furthermore, Frederiksen illustrates the last two "paragraphs" of the claim, claiming the same lengths, widths, and end wall sizes of the ramp sections and straight sections, all shown in Fig. 1 of Fredericksen.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12-14, 17-19, 27, 30, 31, 33, 38-41, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frederiksen (WO 01/02667 A1).

Regarding claim 12, Frederiksen discloses a first attachment means for connecting selected ones of said inclined ramp modules and said straight ramp modules for end-to-end alignment shown by the use of coupling pieces (14) in Figs. 1 and 2. The first attachment means comprises at least one T-shaped protrusion and at least one T-shaped channel groove on said end wall of said inclined ramp module and on said end wall of said straight ramp module with the same spacing between each, as illustrated in Figs. 1 and 2 if you view the piece (14) inserted in a cut-out (12) as forming a T-shaped protrusions with its corresponding cut-out being empty and thereby forming a T-shaped channel groove. The T-shaped protrusion (seen as end of coupling piece 14) on one of said ramp modules is adapted to be slidingly, matingly moved into said T-shaped channel groove (seen as cut-out 12) on another of said ramp modules ramp modules with said T-shaped protrusion on said another of being slidingly, matingly moved into said T-shaped channel groove on said one of said ramp modules.

Frederiksen fails to disclose the T-shaped protrusion and groove both integrally formed on the end wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pieces (14) of Frederiksen to be integrally formed on the end wall, since it has been held that forming in one piece an article which has formerly been formed in tow pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Regarding claim 13, Frederiksen also discloses a second attachment means for connecting selected ones of said inclined ramp modules and said straight ramp modules for side-by-side alignment, shown by the use of the coupling pieces (14) for side to side alignment in Figs. 1 and 3.

Regarding claim 14, Frederiksen discloses the limitations of the claimed invention by the use of the coupling pieces (14) which allow the ramp elements (2A) to be connected together, and the tile elements (4) to be connected together, the T-shaped protrusion being viewed as the ramp element or tile element having the coupling piece (14) inserted in the cut-out (12) and extending therefrom, and the T-shaped channel groove viewed as simply the cut-out (12), as described by the examiner with respect to claim 12 above.

Regarding claim 17, Frederiksen discloses the limitations of the claimed invention as discussed in regards to claims 12 and 14 above. Frederiksen fails to disclose the T-shaped protrusion and groove both integrally formed on the end wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pieces (14) of Frederiksen to be integrally formed on the end wall, since it has been held that forming in one piece an article which has formerly been formed in tow pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Regarding claim 18, Frederiksen meets the claimed recitation since the coupling pieces (14) can be used on the sides or ends of the ramp or tile elements, being interchangeable.

Regarding claim 19, Frederiksen discloses a wedge-angle of 10-20 degrees in claim 1, which meets the claimed recitation of about 19 degrees. Fredericksen though fails to disclose specifically a transverse width of around 25.5 inches and height of around 12 inches, and the side walls of the inclined ramp module and straight ramp module having a longitudinal length of around 36 inches. But Frederiksen does disclose on page 1 that the ramp elements can have suitably differing greatest heights (lines 22-24). Fredericksen also notes on that the ramp elements can be built up for any relevant height (page 4, lines 9-11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ramp system of Frederiksen to have a transverse width of around 25.5 inches and height of around 12 inches, and the side walls of the inclined ramp module and straight ramp module having a longitudinal length of around 36 inches, since Fredericksen states on page 1, lines 22-24 that the ramp elements have suitably differing greatest heights, and states in page 4, lines 9-11 that the ramp elements can be built up for any relevant height.

Regarding claim 27, Frederiksen discloses the limitations of the claimed invention as discussed in regards to claim 1 above, and illustrates the recited dimensional relationships in the figures to the extent that they are *substantially* the same. Furthermore, Frederiksen discloses the limitation that either one of said end walls at one end of said straight ramp module are adapted to be secured to the opposite end wall of another of said straight module for end-to-end assembly, since the coupling device (14) fit all of the cut outs (12). But Fredericksen fails to disclose the transverse width of the end walls being no greater than the longitudinal length of the side walls,

since for the purposes of slight overlapping to facilitate congruency of surfaces, the end wall length is slightly longer than the side wall length. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the relative dimensions of the end walls and side walls of Frederiksen so that the transverse width of the end walls are no greater than the longitudinal length of the side walls, since the extent of the overhang of the inclined ramp over the horizontal ramp therebelow facilitates a congruent incline, but having the same dimensions would not alter the use or function of the ramp.

Regarding claim 30, Frederiksen discloses the limitations of the claimed invention as discussed in regards to claims 1 and 12 above. Frederiksen fails to disclose the T-shaped protrusion and groove both integrally formed on the end wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pieces (14) of Frederiksen to be integrally formed on the end wall, since it has been held that forming in one piece an article which has formerly been formed in tow pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Regarding claim 31, Frederiksen discloses the limitations of the claimed invention as discussed in regards to claim 4 above.

Regarding claim 33, Frederiksen discloses a ramp system comprising a plurality of ramp modules including an inclined ramp module having an inclined upper support surface supported on generally triangularly shaped side walls substantially over its length, seen as the inclined ramps (8) in Fig. 1. The inclined ramp module having an

end wall at one end of the side walls and at the upper end of the inclined surface, the module having a bottom side engageable with a ground surface, the end wall adapted to be secured to an end wall of another ramp as shown in the figures. Attachment means comprising at least one first attachment structure can be seen as the piece (14) at one end wall, and a second attachment structure seen as another piece (14) formed on the other end wall. Frederiksen fails to disclose the pieces (14) being integrally formed with the end walls, and being of different interfitting constructions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pieces (14) of Frederiksen to be integrally formed on the end wall and of different interfitting constructions, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art [*Howard v. Detroit Stove Works*, 150 U.S. 164 (1893)], and having the pieces (14) be of different constructions is an aesthetic variation that would not alter the desired effect or function of the pieces which is to join the ramp sections together.

Regarding claims 38 and 39, Frederiksen discloses the recited dimensional relationships to the extent that they are *substantially* the same. Fredericksen fails to disclose the transverse width of the end walls being no greater than the longitudinal length of the side walls, since for the purposes of slight overlapping to facilitate congruency of surfaces, the end wall length is slightly longer than the side wall length. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the relative dimensions of the end walls and side walls of Frederiksen so that the transverse width of the end walls are no greater than the

longitudinal length of the side walls, since the extent of the overhang of the inclined ramp over the horizontal ramp therebelow facilitates a congruent incline, but having the same dimensions would not alter the use or function of the ramp. With respect to the adapted to recitation at the end of claim 39, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform; it does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Regarding claim 40, Frederiksen discloses the limitations of the claimed invention as discussed in regards to claims 1 and 12 above. Frederiksen fails to disclose the T-shaped protrusion and groove both integrally formed on the end wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pieces (14) of Frederiksen to be integrally formed on the end wall, since it has been held that forming in one piece an article which has formerly been formed in tow pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Regarding claim 41, the figures of Frederiksen illustrate the bottom side being alternatively adapted to be supported on a planar support surface of another of the straight modules in a stacked relationship. Connecting means are disclosed as dowels (18, 18').

Regarding claim 43, Frederiksen discloses the limitations of the claimed invention as discussed in the rejection of claim 1 above, and furthermore discloses the limitations of the claimed invention by the use of the coupling pieces (14) which allow

the ramp elements (2A) to be connected together, and the tile elements (4) to be connected together, the T-shaped protrusion being viewed as the ramp element or tile element having the coupling piece (14) inserted in the cut-out (12) and extending therefrom, and the T-shaped channel groove viewed as simply the cut-out (12), as described by the examiner with respect to claim 12 above.

Regarding claim 44, Fredericksen fails to disclose specifically a height of no less than 12 inches. But Frederiksen does disclose on page 1 that the ramp elements can have suitably differing greatest heights (lines 22-24). Fredericksen also notes on that the ramp elements can be built up for any relevant height (page 4, lines 9-11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the straight module of Frederiksen to have a height of no less than 12 inches, since Fredericksen states on page 1, lines 22-24 that the ramp elements have suitably differing greatest heights, and states in page 4, lines 9-11 that the ramp elements can be built up for any relevant height.

5. Claims 4-6, 25, 34, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frederiksen (WO 01/02667 A1) as applied to claims 1, 23, 33 and 41 respectively, above, and further in view of Felzer (US 2,450,648).

Regarding claims 4-6, 25, 34, and 42, Frederiksen discloses the inclined ramp module and straight module being of a generally hollow structure (Frederiksen discloses the ramp and tile elements as shell elements on page 6, lines 3-7) with said triangularly shaped side walls and end wall being of a relatively thin wall thickness, the lower extremities of said triangularly shaped side walls and end wall defining the bottom side

of said inclined ramp module. Frederiksen fails to disclose the inclined or straight ramp module having a plurality of longitudinally and transversely extending internal ribs of a generally thin wall thickness, at least some of said internal ribs having at least a bottom portion extending downwardly to substantially the same location as the extremities of said triangularly shaped side walls and said end wall to provide further support for said inclined ramp module at said bottom side, at least some of the ribs extending inwardly from the bottom of the inclined upper support surface with the contour of the upper support surface being substantially uniform in the area of the some of the ribs.

Felzer teaches a ramp with longitudinally spaced channels (30) which extends down the sidewalls to the bottom edge thereof, so that the ramp can support a lot of weight using light guage metal without any interior bracing, thereby preventing collapse of the side walls under the weight of a vehicle (Figs. 1 and 2; Col 2, lines 14-30). The channels (30) extend down the entire sidewall area of the ramp, and can be termed "internal" since they extend inward of the profile (see Fig. 2). The channels (30) extend inwardly from form the bottom of the inclined upper support surface with the contour of the upper support surface being *substantially uniform* in the area of the some of the ribs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ramp of Frederiksen to include the ribs as claimed on the inclined or straight ramp module, as taught by Felzer, since Felzer states in column 2, lines 14-30 that such ribs provide structural integrity without the need for interior bracing, preventing collapse of the sidewalls under weight.

Art Unit: 3671

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frederiksen (WO 01/02667 A1) as applied to claim 1 above, and further in view of Seitz (US 6,341,533).

Regarding claim 7, Frederiksen discloses the surfaces being of substantially uniform contour, but fails to disclose the inclined and straight upper support surfaces having a textured, roughened finish to inhibit slippage. Seitz teaches the ramp sections desirably have upper surfaces (27) containing grooves or serrations (29) as shown, for example, in the detail provided in Figs. 3 and 10. Seitz notes that surface grooves (29) provide an anti-skid characteristic, but any other form of anti-skid surface may be utilized, including but not limited to, a sand loaded surface, a rubberized surfaces, a textured surface and combinations thereof. Seitz states that those of skill in the art will understand how to choose or apply suitable non-skid surfaces. (Col 3, lines 52-64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the inclined and straight upper support surfaces of the ramp of Frederiksen to have a textured, roughened finish to inhibit slippage as taught by Seitz, since Seitz states in column 3, lines 52-64 that any type of texture provides a beneficial anti-ski characteristic.

Regarding claim 8, Frederiksen fails to disclose the material of the ramp modules, thereby failing to meet the claimed recitation of the ramp modules of being made from a high density plastic such as a high density polyethylene. Seitz teaches a ramp made of plastic as one possible material (Col 5, lines 5-7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to

Art Unit: 3671

modify the ramp material of Frederiksen to be plastic as taught by Seitz, since plastic is well known for its advantageous strength, durability, and economical benefits.

Allowable Subject Matter

7. Claims 9, 15, 16, 20-22, 24, 26, 28, 29, 35-37, and 45-50 are allowed.
8. Claims 10, 11, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 5/4/04 have been fully considered but they are not persuasive.

Applicant argues that the primary reference, Fredericksen, is not related to ramp systems for providing aerial lift for users of rideable wheeled recreational products, since the height of the ramp is inadequate to provide for the desired aerial lift. The Examiner refutes this argument, since the claims are apparatus claims and merely recite the intended use "for providing aerial lift to users of rideable wheeled recreational products." The Fredericksen reference provides the recited structure claimed, whether alone or in combination with the other cited art. With respect to the applicant's intended use for providing aerial lift, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the

claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

With respect to applicant's argument (as reflected in amended claim 19 which recites dimensions) that the ramp of Fredericksen is not to the size specified in applicant's ramp, though Fredericksen fails to disclose specifically a transverse width of around 25.5 inches and height of around 12 inches, and the side walls of the inclined ramp module and straight ramp module having a longitudinal length of around 36 inches, Fredericksen does disclose on page 1 that the ramp elements can have suitably differing greatest heights (lines 22-24). Fredericksen also notes on that the ramp elements can be built up for any relevant height (page 4, lines 9-11).

Applicant also argues that the instant invention differs from Fredericksen's ramp (2) since applicant has amended several claims to recite that the ramp surface 'is inclined for substantially its full engageable length...'. The Examiner maintains the rejection, since the broad interpretation of "substantially" is met by Fredericksen's disclosure. Indeed the ramp (2) of Fredericksen has a surface that is inclined for *substantially* its full engageable length, though a small portion of the surface appears horizontal, yet the majority is inclined.

Applicant also argues that the Felzer reference is for a vehicle-lift, and therefore directed to a ramp for an entirely difference purpose for the present invention. This argument is irrelevant, since applicant is reciting apparatus claims, and the Examiner is using Felzer for the teaching in the art of ramps of a plurality of channels. It has been held that a recitation with respect to the manner in which a claimed apparatus is

Art Unit: 3671

intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Regarding applicant's arguments with respect to the Seitz reference, applicant notes the additional structures and features in Seitz that are not present in applicant's structure. But the Examiner is using the Seitz reference for the teaching in the art of ramps of surface grooves. The fact that Seitz includes additional structure not required by applicant's invention is irrelevant, since it must be noted that Seitz discloses the limitations as claimed. The fact that Seitz discloses additional structure not claimed is irrelevant.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

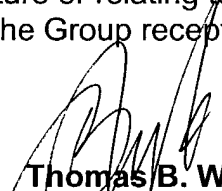
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3671

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
5/20/04